IN THE HIGH COURT OF HIMACHAL PRADESH
SHIMLA

Civil Writ Petition No. 77 of 2001.

Date of decision July 30, 2007.

Nirmal …..**Petitioner.**

Versus

Union of India and another …..**Respondents.**

Coram

The Hon'ble Mr.Justice Dev Darshan Sud, J.

Whether approved for reporting?[1]

For the Petitioner: **Mr. B.S.Chauhan, Advocate.**

For the Respondents: **Mr. Janesh Mahajan, Central Govt. Counsel.**

Dev Darshan Sud, J. (Oral).

The petitioner is aggrieved by the order of the respondents denying disability pension to him. It has been alleged by the petitioner that he was enrolled in the Indian Army on 1.10.1997 and was fit at the relevant time. The petitioner alleges that during the course of his employment, he contracted non specific poly-arthritis and was discharged from the Army from 20.11.1998. The petitioner applied for disability pension which request of

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[1] *Whether reports of Local Papers may be allowed to see the judgment?*

the petitioner was processed and declined by the respondents by an order dated 24.7.2000 (Annexure P-3), stating therein that the petitioner had contracted a constitutional disease. The petitioner was also told that the disease is not connected with military service. It was neither attributable to nor aggravated by his duties. The petitioner has alleged that denial of pension is unconstitutional and void.

An appeal against the order of refusal (Annexure P-3) was preferred by the petitioner which was rejected vide Annexure P-4.

I have heard the learned counsel for the parties and gone through the record.

Learned counsel appearing for the respondents submits that the petitioner was discharged from service as the invaliding disability is non specific poly-arthritis which is neither attributable to army service nor aggravated by it. The disability was assessed at 15 to 19% i.e. below 20% and the petitioner is as such not entitled to any disability pension. During the course of hearing of the petition, the medical board proceedings were also summoned and the record perused. Copy of the proceedings was also directed to be given to the learned counsel for

the petitioner. Learned counsel for the respondents has submitted that this Court in Santosh Kumar v. Union of India (CWP 742 of 2003) has held that in case the disease is neither attributable to nor aggravated by Army service, no disability pension is admissible. Learned counsel for the respondents submits that the report has not been assailed nor has any infirmity been pointed out. In these circumstances, writ petition deserves to be dismissed.

From the submissions made, I do not find any infirmity in the order of rejection of the representation of the petitioner requesting for disability pension. Nothing has been brought on record to show that the medical opinion was not correct or it suffers from any other legal infirmity which would require this Court to set it aside and base its decision on the other facts pleaded.

In the facts and circumstances of the case, this writ petition is dismissed. There shall be no order as to costs. However, this will not prevent the petitioner from seeking any other remedy under law to which he may be entitled to.

July 30, 2007(PC). (Dev Darshan Sud), J.